

**Before the
Federal Communications Commission
Washington, D.C. 20005**

In the Matter of

Digital Broadcast Content Protection

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MB Docket No. 02-230

**OPPOSITION TO GENESIS MICROCHIP, INC.'S PETITION FOR
RECONSIDERATION BY SILICON IMAGE, INC.**

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March 10, 2004

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OPPOSITION TO GENESIS'S PETITION FOR RECONSIDERATION

I. Introduction

Silicon Image Inc. ("Silicon Image"), by its counsel, and pursuant to Section 1.429 of the Commission's rules, submits this Opposition to Genesis Microchip Inc.'s ("Genesis") Petition for Reconsideration of the First Report and Order in the above captioned proceeding (the "Broadcast Flag Order").¹ Silicon Image designs, develops and markets multi-gigabit semiconductor and system solutions for a variety of communications applications demanding high-bandwidth capability. Founded in 1995, Silicon Image has quickly grown into a leading provider of innovative solutions for personal computers, consumer electronics, storage and networking industry segments. Silicon Image is publicly traded, employs approximately 250 people (the majority of which are engineers and technical personnel) and is located in Sunnyvale, California. Silicon Image actively participated in the development of the Digital Visual Interface ("DVI") and High Definition Multimedia Interface ("HDMI") specifications, has intellectual property involved in both specifications and develops semiconductor products implementing both specifications. Silicon Image will be directly affected by the outcome of this proceeding.

Silicon Image asks the Commission to deny Genesis's petition for reconsideration of the Broadcast Flag Order, with respect to the portion of the order which allows computers incorporating DTV tuners (and sold after July 2005) to pass an unprotected signal using a format compatible with the DVI specification.² Genesis's petition for reconsideration of the Broadcast Flag Order is incorrect, misleading and directly contradicts the Commission's findings in an earlier proceeding ("Plug & Play Order").³ In the Plug & Play Order, the Commission correctly

¹ First Report and Order in MB Docket 02-230, *Digital Broadcast Content Protection*, 68 FR 67599, adopted November 4, 2003)

² Broadcast Flag Order at 73.9003(a)(7) and 73.9004(a)(6).

³ Second Report and Order and Second Further Notice of Proposed Rulemaking in CS Docket No.97-80 and PP Docket No. 00-67, *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment*, Adopted October 9, 2003 ("Plug & Play Order").

concluded that the DVI specification is “widely available to the marketplace today...and these technologies are freely offered on non-discriminatory terms.”⁴ Because the Commission already rejected Genesis’s identical arguments in the Plug & Play Order and because Silicon Image already responded fully in its opposition to Genesis’s petition for reconsideration in that proceeding, Silicon Image’s statement in this proceeding will be brief.

The Commission vigorously conducted a thorough and in-depth investigation in the Plug & Play Order concerning the DVI specification and correctly found that the specification is freely licensed to any company and was developed as part of an open standard setting process.⁵ Therefore, Silicon Image respectfully requests that the Commission deny Genesis’s petition for reconsideration and reject Genesis’s requests for specific relief.

II. The DVI Specification Is Widely Available in the Marketplace and Offered on Non-Discriminatory Terms

In its Plug & Play Order, the Commission correctly properly found that the technology underlying the DVI specification is widely available and is freely offered on non-discriminatory terms.⁶ The Digital Display Working Group (“DDWG”), which is an open industry group chaired by Intel, and whose other promoters include IBM, NEC, Fujitsu, Hewlett Packard, and Silicon Image grants a royalty-free, worldwide, perpetual license for the DVI specification for computer displays to any company that signs the DVI Adopters Agreement. Moreover, the underlying technology has been widely licensed for consumer electronics applications. As the Commission properly noted in the Plug & Play Order, the DVI technology for consumer electronics applications is “widely available in the marketplace today.”⁷ In fact, as of January 2004, approximately 500 models of DTV, Set Top Boxes and DVD players included a DVI port.

Genesis is the only company that attempted to exceed unlawfully the clear restrictions of the DVI Adopters Agreement and is the only company that has disputed the scope and interpretation of the DVI license. No DDWG member, including Silicon Image, has ever brought suit or has any pending patent infringement lawsuits against any other company with respect to the DVI specification.

III. The DVI Specification Was Developed as Part of an Open Standard Setting Process

The Commission correctly concluded in the Plug & Play Order that the adoption of the DVI specification is consistent with past Commission practice because the specification was developed as a basis for and consequently part of a lawful and open standard setting process.⁸ Although the Commission does not require that technologies incorporated into FCC standards

⁴ Plug & Play Order at Para. 25.

⁵ Plug & Play Order at Para. 25

⁶ Plug & Play Order at Para. 25

⁷ Plug & Play Order at Para. 25

⁸ Plug & Play Order at Footnote 66

are developed consistent with ANSI procedures, the DVI specification was developed using ANSI consistent procedures and policy.

Second, with respect to the DVI specification, the Commission correctly concluded that the DVI specification has “been included in normative references in standards that have undergone the ANSI process.”⁹ The DVI specification was adopted by the Consumer Electronics Association (“CEA”). The CEA, as the Commission found, is an ANSI-accredited standard-setting organization and has a clear patent disclosure policy requiring the early disclosure of any patents and pending patents that might bear on a standard under development. The CEA’s decision to include the DVI specification as a normative reference in the CEA-861 standard, clearly demonstrates that the Commission has met its generally stated instructions by the Congress to seek the “consultation” of standard-setting organizations.

IV. The Commission Should Deny Genesis’s Request for Modification of the Broadcast Flag Order

Genesis’s request for full disclosure of all patents, pending patents, necessary claims, and licensing terms and conditions related to the DVI specification is unnecessary and contrary to Commission practice and contrary to the Commission’s findings in the Plug & Play Order that the technology underlying this specification is widely available in the marketplace today. Genesis’s “basis” for its request is that the DVI patents and “necessary claims” have not yet been disclosed. However, as explained above, the DVI specification was adopted as a normative reference in standards during a standard setting process that required the mandatory listing of all patents, all pending patent applications, and all necessary claims to implement these standards. Therefore, this specification has already been fully vetted for outstanding claims.

The Commission should also deny Genesis’s request for a full disclosure of the terms and conditions of licenses for the DVI specification because the ubiquitously available DVI Adopters Agreement clearly delineates the specific license terms and conditions. Moreover, as demonstrated by the wide availability of DVI products in the marketplace, the underlying technology has been widely licensed for consumer electronic applications. Genesis, who has signed an Adopter’s Agreement, is the only company that has resisted complying with its terms. Finally, the Commission should deny Genesis’s request that any further standards activities surrounding DVI be conducted through an open standards-making organization as unnecessary and unwarranted. As explained above, the DVI specification was adopted by the CEA, which is an open standards making organization and which does provide ANSI due process guarantees. The DDWG remains open to any party to participate. Moreover, if a third party complains in the future that these technologies are not being licensed on reasonable and non-discriminatory terms, the Commission had the ability to consider those complaints at the point in time they are made and to take appropriate remedial action, if necessary.¹⁰ Therefore, the Commission should deny Genesis’s requests for modification of the First Report and Order in this proceeding.

⁹ Plug & Play Order at Footnote 66.

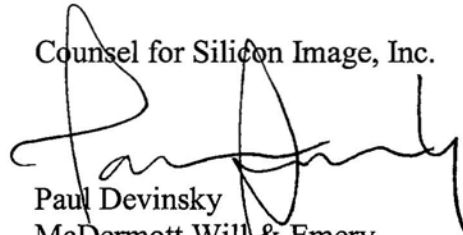
¹⁰ *Advanced Technical Systems and Their Impact Upon the Existing Television Broadcast Service*, 6 FCC Rcd 7024, 7034 (1991)

V. Conclusion

For the reasons described above, Silicon Image urges the Commission to deny Genesis's Petition for Reconsideration of the portion of the Broadcast Flag Order allowing computers incorporating DTV tuners to pass an unprotected signal using a format compatible with the DVI specification and deny Genesis's requests for modification of that Order.

Respectfully Submitted,

Counsel for Silicon Image, Inc.

A handwritten signature in black ink, appearing to read "Paul Devinsky", is written over the printed name and firm name.

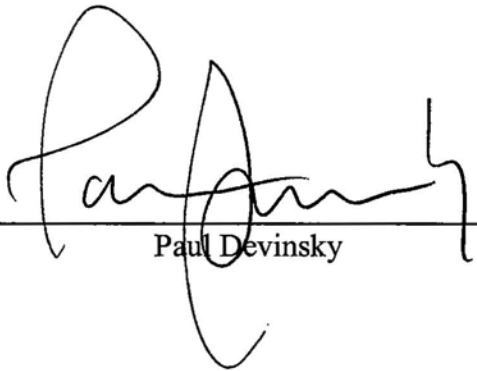
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CERTIFICATE OF SERVICE

I, Paul Devinsky, hereby certify that a true and correct copy of the Opposition to Genesis's Petition for Reconsideration in MB Docket No. 02-230 by Silicon, Image, Inc., was served on the following parties on March 10, 2004, by first-class mail, postage prepaid:

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Paul Devinsky